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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,084	02/25/2004	Ichiro Tanaka	Q79955	8542
23373	7590	07/20/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			SAMPLE, DAVID R	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Art Unit: 1755

### DETAILED ACTION

Any rejections and/or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakuta et al. (US 6,905,993).

Sakuta et al. discloses stabilized zirconia ceramics which have the tetragonal crystal structure. See the abstract, and Table 1. The ceramics contains on the order of 3 mole percent  $Y_2O_3$  and have an average grain size on the order of 0.2 to 0.3. See Table 1, Examples 4, 6, 8, 11, 12, 13, 16, and 17. A ceramic containing 2.6 mole percent  $Y_2O_3$  and 97.4 mol%  $ZrO_2$  converts to a ceramic containing 4.7 wt%  $Y_2O_3$  and 95.3 wt%  $ZrO_2$ .

Sakuta et al. does not disclose the FWHM of the ceramic products. However, the breadth of x-ray diffraction peaks is mainly determined by the grain size of the ceramic that is being

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measured. A broader peak results from smaller particle/grain size. See, e.g., page 100 of Cullity. The ceramics of Sakuta et al. contain an average particle size that is identical to grain size of claim 5. For these reasons, the FWHM properties of claims 1-3 are presumed to be inherent to the ceramic of the reference. See MPEP 2112 for a discussion of inherency.

As to claim 4, the reference discloses that the ceramic is entirely tetragonal zirconia. .

The recitations of instant claims 6 and 7 can be found in the reference in at least one of claims Table 1, Examples 4, 6, 8, 11, 12, 13, 16, and 17.

**Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.**

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Allowable Subject Matter***

Claims 11-13 are allowed.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

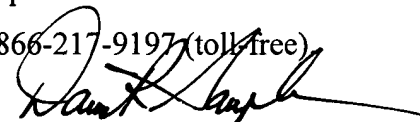
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



David Sample  
Primary Examiner  
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